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Supreme Court of the United States

OCTOBER TERM, 1963

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No. [redacted]

DOROTHY DORSETT BROWN,
Petitioner,

versus

ORLEANS PARISH SCHOOL BOARD,
Respondent.

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF LOUISIANA.

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HAUSER PRINTING CO., INC., NEW ORLEANS

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BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF LOUISIANA.

This brief in opposition to the petition for a writ of certiorari is filed pursuant to the permissive provisions of Rule 24, Supreme Court Rules.

The instant petition should be denied for the following reasons:

1. No reasons, of the character of those set forth in Rule 19, Supreme Court Rules, are present in the instant case. Therefore, the Court in the exercise of its sound judicial discretion should not grant the writ.

2. There is a serious question as to whether the petition for writ of certiorari was timely filed. (Rule 22(3), Supreme Court Rules)

The Supreme Court of Louisiana on the 9th day of October, 1963, issued a writ of review to the Court of Appeal, Fourth Circuit, State of Louisiana, but limited the review to the question of assessment of costs. (See, pp. 4, 10 and 12 of petition for writs). In all other respects, the application was denied. The language used by the Supreme Court of Louisiana is quoted on Page 12 of the instant petition, and reads:

> "Granted but limited to the question of assessment of costs. In all other respects the application is denied."

The judgment of the Court of Appeal became final in all respects, except as to the question of assessment of costs, 15 days after October 9, 1963, when the Supreme Court of Louisiana denied petitioner's application for writs in all respects, except as to the question of assessment of costs.

TIME IS OF THE ESSENCE

In Louisiana, expropriation proceedings " * * * shall be tried in term time or in vacation and shall be conducted with the greatest possible dispatch * * *." (LSA-R.S. 19:8)

Respondent's original petition, seeking to expropriate a school site of 25 acres, out of a total of more than 5000 acres owned by the petitioner herein, in the vicinity, was filed on September 14, 1962.

All facets of this case have been thoroughly litigated in two phases in the District Court, in an application for writs and an appeal to the Court of Appeal, and in an application for writs to the Supreme Court of Louisiana. The latter court, on March 24, 1964, denied a motion by

petitioner herein to stay its mandate. If ever a litigant has had full and complete due process of law, it is the petitioner herein!

Meanwhile, respondent has entered into an architectural contract for the design of a combination Junior-Senior High School, to be constructed on the site herein expropriated, with a construction budget in excess of $2,000,000.00; and has already entered into a contract to clear the expropriated site.

The school being designed is sorely needed to relieve other overcrowded school houses in the Parish of Orleans. But, respondent can not, with prudence, let a building contract until the instant litigation is definitively terminated.

Since this matter is impressed with a public interest, the court is respectfully requested to consider the petition for a writ of certiorari filed herein at its earliest possible opportunity, and to pass thereon as soon as possible.

Respectfully submitted,

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CERTIFICATE

I hereby certifiy that copies of the foregoing brief have been served on opposing counsel by placing same in the United States mails, postage prepaid, addressed to them, as follows:

Edward M. Carmouche, Esquire
416 Pioneer Building
Lake Charles, Louisiana

and

Solomon S. Goldman, Esquire
1320 Saratoga Building
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New Orleans, Louisiana, ... day of June, 1964.

SAMUEL I. ROSENBERG